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SUBJECT: MEXICO,S RULING PARTY PROPOSES FREEDOM OF
INFORMATION TYPE REQUIREMENTS FOR UNIONS

¶1. SUMMARY: Mexico,s Federal Labor Law is amazingly detailed with regards to the obligations that employers have towards employees but surprisingly silent when it comes to the obligations the unions have towards their members. Mexican unions are under no obligation to their membership on such things as who holds leadership positions or how much union officials earn, how much workers can be charged for union dues, what is done with union funds, what property the unions own, or even the details of their collective bargaining contracts. In fact, Mexicans unions have very few legal obligations to provide their members with any information at all on the internal administration of their organization. Because of the obvious potential for abuse the Senatorial faction of Mexico,s ruling National Action Party (PAN) has proposed a change in the country,s labor laws that will impose freedom of information type requirements on organized labor unions. If passed, this legislation would usher in a significant and positive change in the way labor unions operate in Mexico. Alas, the chances of this proposal becoming law are not good. Despite declining membership and a consequent loss of political power, Mexico,s labor unions still wield considerable clout when it comes to vetoing legislation they do not want. END SUMMARY.

UNION AUTONOMY

¶2. Regardless of what labor organization they may belong to, one of the most frequently discussed aspects of Mexico,s Federal Labor Law among senior labor leaders is the statute governing union autonomy. Labor leaders consider this autonomy to be the basis for independent unions. The overwhelming majority of Mexican labor experts and a significant portion of its political class, at least publicly, can be counted on to support the idea of union autonomy as one of the bedrock principles underpinning the growth of a more democratic Mexico. Union autonomy is viewed as one of the ways in which the broader human rights of freedom of speech and freedom of association are guaranteed.

¶3. In theory, union autonomy prevents any attempt by the government to take over an organization intended to promote the economic well being of average Mexicans and using it for political gain. In practice, union autonomy in Mexico seldom appears to be about protecting human rights. More than anything else, &union autonomy8 in Mexico has come to symbolize one of the things that most clearly demonstrates the need for urgent labor reform; namely a corrupt union leadership completely free of any type of accountability.

UNIONS OPERATE ON A NEED TO KNOW BASIS

¶4. Mexico,s Federal Labor Law derived from the country,s constitution, specifically Article 123, which establishes a set of principals and rules applicable to all laws regulating labor relations. Over time these rules have developed into an intricately detailed set of regulations covering the obligations employers have towards employees. However, these regulations are all but silent when it comes to the obligations unions have towards their members. As a result the reality of union autonomy in Mexico has changed from a tool in the defense of basic human rights to a de facto blanket justification for labor leaders to operate on a need to know basis.

¶5. Mexican Federal Labor Law does not obligate unions to divulge any information whatsoever about their internal administration. Consequently, labor leaders closely guard such information claiming that the details of internal union administration are freely available to their organizations, membership since they are they only ones who really need to know. In reality, since the law does not require labor leaders to release information about the internal workings of their unions, most of them do not do so.

¶6. The average Mexican union member receives little or no information on the organization,s internal administration. They have no right to such basic information as the names of the persons in union leadership positions, how much union officials earn, how much workers can be charged for union dues, what is done with union funds, what property the unions

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own, or even the details of their collective bargaining contracts. In a disturbing number of cases, such as when the union exists only on paper, the workers are not even told that they are members of a union. In such instances, which by some estimates occur in over fifty percent of all collective bargaining contracts, workers are denied the right (to?) read the statutes which govern internal union administration yet they are nevertheless required to pay bi-weekly union dues.

PROPOSED LAW WOULD REQUIRE OPENNESS

¶7. A shockingly large number of abuses have occurred in Mexico,s organized labor movement under the cover of union autonomy. The most spectacular of these in recent times is the allegation that the leader of what had been Mexico,s sole Mine Workers, Union, reportedly misappropriated USD 55 million in union pension funds. As a result of this and other abuses of union autonomy, the Senatorial faction of the ruling National Action Party (PAN) in the Mexican congress has proposed to change the Federal Labor Law and oblige labor union to divulge any and all information about a union,s internal administration.

¶8. If passed this proposed change in the law would be a significant and positive step in the way unions operate in Mexico. The proposal would also require changes in the way union elections are held in order to make them more secure and accurate. Currently most internal elections for union leadership positions are conducted via a public show of hands where workers can be and often are intimidated into voting for someone other than the candidate of their real choice.

UNION LEADERS CRY FOUL

¶9. Not surprisingly a number of union leaders, some of whom

are members of the lower house of the national legislature, have denounced that proposed change in the law. The criticism of the proposed change has come from union leader associated with Mexico,s two main opposition political parties, the Party of the Democratic Revolution (PRD) and the Institutional Revolutionary Party (PRI). Labor leaders associated with these parties have accused the PAN of trying to do away with union autonomy as a prelude to eliminating legitimate worker rights.

¶10. Some labor leaders have stated that the timing of the PAN,s proposal to change Federal Labor Law is not motivated by a desire to increase the workers, (and the public,s) right to know. Instead, they claim, the proposal is a political ploy to divert attention from the ongoing public outcry about the shockingly lavish home of former Mexican President, Vicente Fox. Former President Fox is a member of the PAN. In recent weeks he has been at the center of considerable (unfavorable) public comment prompted by a news magazine story and detailed pictures of his personal residence since leaving office. Thus far there is nothing that would indicate that the PAN,s proposal to change Federal Labor Law is in anyway connected to an attempt to divert attention from former President Fox or the fact that many Mexicans are still not satisfied with the explanations about how his lavish personal residence was paid for.

PROPOSING A CHANGE IS MUCH EASIER THAN ACTUALLY MAKING ONE

¶11. Changing the law that has allowed serious abuse to take place in the name of union autonomy would be a significant positive step toward promoting the development a more open and democratic labor movement in Mexico. However, proposing to change a law and actually having the votes to do so are two different things. Although the PAN is currently the largest party in the Mexican congress it does not have enough votes by itself to change a law with such entrenched special interest support. The proposed change has generated some support among legislators in Mexico,s other two main political parties but at present that support does not appear to be very widespread.

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¶12. Most of the labor unions in Mexico are in one way or another tied to the country,s two main opposition parties and it is unlikely that these parties will move strongly against an important part of their base. By any objective standard Mexico,s organized labor movement is only a fraction of what it once was. For a variety of reasons (such as job loss due to global competition, mass migration to the US, a significant growth in the informal economy, etc.) the unions have lost membership which means they have lost votes and with that political power. It has been some time since organized unions in Mexico were able to call the shots with regard to passing what they considered to be labor friendly legislation. However, this does not mean that they are powerless. When unions see vital interests at stake they can be extremely effective in voting legislation that they do not like.

COMMENT

¶13. According to a Mission Mexico labor lawyer contact the Mexican government has been trying, unsuccessfully, to change the Federal Labor Law for at least 20 years. The recent proposal to change the law with regard to opening up internal union administration to public scrutiny would undoubtedly work to prevent (or least somewhat restrain) abuse of union autonomy. Thus far the PAN,s proposal to change this portion of Mexico,s labor appears to have originated with the party,s senatorial faction and although the proposal has

generated a fair amount of public commentary as yet there is no indication of whether it has the full support of President Calderon,s administration. It could be that the administration is waiting to see what the broader public,s reaction will be to proposal. If President Calderon comes out strongly in favor of the proposal its chances of becoming law will greatly improve. However, to date there has been no indication that President Calderon and his administration are prepared to take on the union over an issue that will greatly complicate the lives of some very entrenched special interests.

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